

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE HEBERTO ALVAREZ DENIS,

Petitioner,

15-cr-632 (JGK)

- against -

UNITED STATES OF AMERICA,

Respondent.

ORDER

JOHN G. KOELTL, District Judge:

The defendant requests the Court to grant him credit toward his current term of imprisonment for the time spent in detention in Colombia from February 24, 2016 through April 27, 2017, while he was awaiting extradition to the United States for the crime for which he was eventually sentenced by this Court.

In response to the defendant's motion, the Government has submitted evidence from the Bureau of Prisons ("BOP") that the defendant now has been credited with jail time for the period February 25, 2016 through April 10, 2019 and that his credit for BOP imprisonment began on April 11, 2019, when the sentence was imposed. No reply has been submitted from the defendant.

Because the BOP has determined that the defendant is entitled to federal credit for the time he was incarcerated in Colombia, pending extradition, the defendant's request is substantially moot. The only remaining difference between the BOP's subsequent determination and the defendant's request to

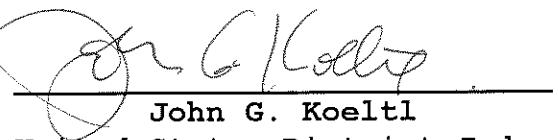
USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>6-16-2021</u>

this Court is whether the credit the defendant receives should begin on February 25, 2016, as afforded by the BOP, or February 24, 2016, as requested by the defendant.

In any event, because the exceptions provided for in 18 U.S.C. § 3582(c) do not appear to apply, the determination of when the defendant's sentence should have commenced is committed to the discretion of the BOP. 18 U.S.C. §§ 3585(c), 3621(b). If the defendant believes that he should receive any additional credit he should exhaust his remedies with the BOP. After exhaustion, if unsatisfied, the defendant may seek relief from the Court pursuant to 28 U.S.C. § 2241. Accordingly, the defendant's application is denied.

SO ORDERED.

Dated: New York, New York
June 16, 2021



John G. Koeltl
United States District Judge

**Copy mailed to pro se party(ies)
at docket address**